

Appl. No. : 10/721,434  
Filed : November 25, 2003

### REMARKS

Claims 1-23, 27, and 30 have been cancelled. Claim 24 has been amended. Claims 24-26 and 28-29 are now pending in this application. Support for the amendments is found in the existing claims and the specification as discussed below. Accordingly, the amendments do not constitute the addition of new matter. Applicant respectfully requests the entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

#### **Allowable subject matter**

Applicants gratefully acknowledge the indication of allowable subject matter for claims 28-30. With this amendment, claim 30 has been incorporated into claim 24. Remaining issues under 35 U.S.C. § 112 are addressed below. Accordingly, it is respectfully submitted that the present application is in condition for allowance. Reconsideration is requested.

#### **Priority**

The continuity data has been updated to include the US Patent No. for Application No. 09/915,031.

#### **Rejection under 35 U.S.C. § 112, second paragraph**

Claims 30 is rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 30 has been incorporated into claim 24. It is respectfully submitted that proper antecedent basis for "the fecal sample" is provided in claim 24 as amended.

#### **Rejection under 35 U.S.C. § 112, first paragraph**

Claim 27 is rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which is not described in the specification in such a way so as to enable one skilled in the art to which it pertains to make and/or use the invention.

This ground of rejection is now moot in view of Applicants' cancellation of claim 27.

#### **Rejection under 35 U.S.C. § 103(a)**

Claims 24-25 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pant, et al. (Journal of Tumor Marker Oncology, vol. 3, p. 1(1988)) in view of The Merck Index, (Budavari, O'Neil, Smith and Heckelman, eds., page 1357 (1989) and Handbook of

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Experimental Immunology in Four Volumes, vol. 1: Immunochemistry, Weir, ed. (1987), Chapter 27, and Zuk, et al. (US 4281061).

Claims 24-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pant, et al. (Journal of Tumor Marker Oncology, vol. 3, p. 1(1988)) in view of Panigrahi, et al. (J. Clinical Microbiology, vol. 25, page 702, (1987), The Merck Index, (Budavari, O'Neil, Smith and Heckelman, eds., page 1357 (1989) Handbook of Experimental Immunology in Four Volumes, vol. 1: Immunochemistry, Weir, ed. (1987), Chapter 27, and Zuk, et al. (US 4281061).

The above grounds of rejection are believed to be moot in view of Applicants' amendment of claim 24 to include the limitations of claim 30. As noted by the Examiner, the art does not teach COTA in feces. Accordingly, it is respectfully submitted that the claims as amended are non-obvious over the cited references.

In view of Applicants' amendments, reconsideration and withdrawal of the above ground of rejection is respectfully requested.

### **CONCLUSION**

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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